

§ 565.5

carrier is owned or controlled by a government, or if a government may approve or disapprove the majority of directors or the chief executive or operating officer of the carrier, the carrier shall immediately send written notification to the Secretary of the details of such ownership or control.

§ 565.5 Exceptions.

All controlled carriers shall be subject to provisions of this part and section 9 of the Shipping Act of 1984 except those which meet the following exceptions:

(a) When the vessels of the controlling state are entitled by a treaty of the United States to receive national or most-favored-nation treatment; or

(b) When the controlled carrier operates in a trade served exclusively by controlled carriers.

§ 565.6 Level of rates and charges generally.

No controlled carrier may maintain or enforce rates or charges in its tariffs or service contracts that are below a level that is just and reasonable. No controlled carrier may establish or maintain unjust or unreasonable classifications, rules, or regulations in its tariffs or service contracts. An unjust or unreasonable classification, rule or regulation means one that results or is likely to result in the carriage or handling of cargo at rates or charges that are below a just and reasonable level. See § 565.9(a)(2) (Rate standards).

§ 565.7 Effective dates.

(a) *Generally.* Except for service contracts, the rates, charges, classifications, rules or regulations of controlled carriers may not, unless the Commission has granted special permission, become effective sooner than the 30th day after the date of publication.

(b) *Open rates*—(1) *Generally.* Controlled carriers that are members of conference agreements publishing rates for commodities designated as open by the conference are subject to the 30-day controlled carrier notice requirement, except when special permission is granted by the Commission under § 565.8.

(2) *Conference publication of reduced open rates.* Notwithstanding paragraph

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(b)(1) of this section, a conference may, on less than 30 days' notice, publish reduced rates on behalf of controlled carrier members for open-rated commodities:

(i) At or above the minimum level set by the conference; or

(ii) At or above the level set by a member of the conference that has not been determined by the Commission to be a controlled carrier subject to section 9 of the Shipping Act of 1984.

(c) *Independent action rates of controlled carriers.* Conferences may publish on behalf of their controlled carrier members lower independent action rates on less than 30 days' notice, subject to the requirements of their basic agreements and subject to such rates being published at or above the level set by a member of the conference that has not been determined by the Commission to be a controlled carrier subject to section 9 of the Shipping Act of 1984.

§ 565.8 Special permission.

Section 8(d) of the Shipping Act of 1984 authorizes the Commission, in its discretion and for good cause shown, to permit increases or decreases in rates, or the issuance of new or initial rates, on less than statutory notice under § 565.7. Section 9(c) of the Shipping Act of 1984 authorizes the Commission to permit a controlled carrier's rates, charges, classifications, rules or regulations to become effective on less than 30 days' notice. The Commission may also in its discretion and for good cause shown, permit departures from the requirements of this part. The Commission will consider such requests for special permission by controlled carriers pursuant to its procedures set forth at 46 CFR part 520.

§ 565.9 Commission review, suspension and prohibition of rates, charges, classifications, rules or regulations.

(a)(1) *Request for justification.* Within 20 days of a request (with respect to its existing or proposed rates, charges, classifications, rules or regulations) from the Commission, each controlled carrier shall file a statement of justification that sufficiently details the controlled carrier's need and purpose for such rates, charges, classifications,